

21 OCT 1954

MEMORANDUM FOR: Acting General Counsel

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SUBJECT: Proposed [REDACTED] Separations - Employment Review Board

In accordance with your note dated 21 October 1954, we have reviewed the draft of subject regulations and the following comments are offered:

Paragraph 1: We suggest consideration of the following phrase in lieu of the last phrase preceding the quotation: "without the right of appeal to any tribunal, administrative or legal, when termination action is taken."

Paragraph 3a: You have provided for an ERB in every case. In paragraph 5d., however, the Director may take ^{certain} action without regard to this regulation. Since this could be construed to be conflicting, it appears to us that paragraph 3a. requires some sort of statement which would not bind the Director to use ERB in every case. Suggest deleting the words "In every case" and adding to paragraph 3a the following: "when the Director deems such action necessary or desirable".

Paragraph 3b: We presume the inclusion of this subparagraph is to provide the Director with one responsible individual to whom he can look for the handling of all such cases. ~~Since the Assistant Director for Personnel is charged with the administration of all matters affecting [REDACTED]~~ ^{presently} Since the Assistant Director for Personnel plays a vital part in all ERB cases, it is my view that the Assistant Director for Personnel rather than the Deputy Director (Administration) should be designated as the point of overall responsibility. ^{To provide otherwise would constitute diffuse responsibility for the handling of people which we understand to be clearly that of this office.}

Paragraph 4a: Historically the Assistant Director for Personnel has never been designated as an advisor to the Employment Review Board.

Under present organizational concepts, however, I am inclined to believe that there is much to be gained by having a representative of the Assistant Director for Personnel designated as an advisor without vote to each Employment Review Board. The fact that the Assistant Director for Personnel is the official responsible for notification to the [REDACTED] employee of the proceedings under section 102(c) of the National Security Act would not, in my opinion, ^{make it improper for} the Assistant Director for Personnel ^{to} ~~from~~ furnishing an advisor to a board since the action official in every case is the Director.

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Paragraph 5c: We appreciate the present wording of this subparagraph to require passage of a referral by the Director of Security through the Assistant Director for Personnel. The DDCI, however, has previously been of the opinion that the Director of Security may by-pass the Assistant Director for Personnel in certain cases. If the wording stands as now proposed, we presume that the primary reason for passage of a case through the Assistant Director for Personnel and the General Counsel will be for informational reasons and not that responsibility ^{is} ~~for placing~~ placed in the Assistant Director for Personnel to determine whether a case should be referred to an ERB in the same manner as is provided in paragraph 5b.

Paragraph 5d: The last sentence of this subparagraph appears to relate only to suspension action. In view of the conversations we have had on this subject we raise the question again as to whether the regulation should provide for the Director ^{separately} ~~to~~ take unilateral action. See also our comments relating to paragraph 3a.

Paragraph 5e: The inference in the second phrase of this subparagraph is that the Director may take unilateral action. See our comments on

paragraphs 3a. and 5d. We feel that the Deputy Assistant Director for Personnel might be mentioned as having authority to notify the major component of an action initiated although this is a minor point.


Paragraph 5g: The third word in this subparagraph should be changed from "from" to "to" since, as we read it, the statement to be incorporated in the notice to the employee becomes necessary after the Assistant Director for Personnel has been notified, either by the Chairman of an ERB or by the Director that action is to be taken. The last sentence of this subparagraph refers to the "Office of" ~~the~~ General Counsel which we suggest eliminating to conform with the designation of the Director of Security and the Assistant Director for Personnel.

Paragraph 5h: Suggest "Office of Personnel" be changed to "Assistant Director for Personnel".

Paragraph 7d: Suggest "Office of Personnel" be changed to "Assistant Director for Personnel".

Paragraph 7e: Suggest "Office of Personnel" be changed to "Assistant Director for Personnel".

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Assistant Director for Personnel